

M&I
T. O. Draft 10/22-2004
T. O. Draft 09/30/2004
T. O. Draft 08/19-2004
T. O. Draft 01/05-2004
R.O. Draft 09/23-2003 CVP M&I Form of Contract
R.O. 08/19-2004 San Luis Unit Form of Contract
Contract No.
14-06-200-7081A-LTR1

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
CITY OF HURON
PROVIDING FOR PROJECT WATER SERVICE
FROM SAN LUIS UNIT AND DELTA DIVISION

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble	1
	Explanatory Recitals	2-5
1	Definitions	5-9
2	Term of Contract.....	9-11
3	Water to be Made Available and Delivered to the Contractor	11-15
4	Time for Delivery of Water	15-16
5	Point of Diversion and Responsibility for Distribution of Water	16-18
6	Measurement of Water Within the Contractor’s Service Area.....	18-20
7	Rates and Method of Payment for Water.....	20-26
8	Non-Interest Bearing Operation and Maintenance Deficits	26
9	Sales, Transfers, or Exchanges of Water	26-28
10	Application of Payments and Adjustments.....	28-29
11	Temporary Reductions--Return Flows	29-30
12	Constraints on the Availability of Water	30-31
13	Unavoidable Groundwater Percolation.....	31
14	Rules and Regulations	31
15	Water and Air Pollution Control.....	31
16	Quality of Water	31-32
17	Water Acquired by the Contractor Other Than From the United States	32-34
18	Opinions and Determinations	34
19	Coordination and Cooperation.....	35-36
20	Charges for Delinquent Payments	36-37

Table of Contents - continued

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
21	Equal Opportunity.....	37-38
22	General Obligation--Benefits Conditioned Upon Payment	38
23	Compliance With Civil Rights Laws and Regulations	39
24	Privacy Act Compliance	39
25	Contractor to Pay Certain Miscellaneous Costs	39
26	Water Conservation	40-41
27	Existing or Acquired Water or Water Rights.....	41
28	Operation and Maintenance by San Luis & Delta-Mendota Water Authority	42-43
28.1	Operation and Maintenance by California Department of Water Resources ..	43-45
28.2	Operation and Maintenance by Westlands Water District.....	45-47
29	Contingent on Appropriation or Allotment of Funds	47
30	Books, Records, and Reports	47-48
31	Assignment Limited--Successors and Assigns Obligated	48
32	Severability	48-49
33	Resolution of Disputes.....	49
34	Officials Not to Benefit.....	50
35	Changes in Contractor's Service Area.....	50
36	Federal Laws	50
37	Notices	51
38	Confirmation of Contract.....	51
	Signature Page	52

Exhibit A - Map of Contractor's Service Area

Exhibit B - Rates and Charges

T. O. Draft 10/22-2004
T. O. Draft 09/30-2004
T. O. Draft 08/19-2004
T. O. Draft 01/05-2004
R. O. Draft 09/23-2003 CVP M&I Form of Contract
R. O. 08/19-2004 San Luis Unit Form of Contract
Contract No.
14-06-200-7081A-LTR1

1 UNITED STATES
2 DEPARTMENT OF THE INTERIOR
3 BUREAU OF RECLAMATION
4 Central Valley Project, California

5 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
6 AND
7 CITY OF HURON
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM SAN LUIS UNIT AND DELTA DIVISION

10 THIS CONTRACT, made this ____ day of _____, 2005, in pursuance
11 generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,
12 including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and
13 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70
14 Stat.483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat.
15 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively
16 hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA,
17 hereinafter referred to as the United States, and CITY OF HURON, hereinafter referred to as the
18 Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to
19 the laws thereof, with its principal place of business in California;

20 WITNESSETH, That:

EXPLANATORY RECITALS

21
22 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
23 Project, (Project) California, for diversion, storage, carriage, distribution and beneficial use, for flood
24 control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and
25 restoration, generation and distribution of electric energy, salinity control, navigation and other
26 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the
27 San Joaquin River and their tributaries; and

28 [2nd] WHEREAS, the United States constructed the Delta Division Facilities, including the
29 San Luis Unit facilities (which include the San Luis Canal, the Coalinga Canal, the Pleasant Valley
30 Pumping Plant, and Dos Amigos Pumping Plant), which will be used in part for the furnishing of
31 water to the Contractor pursuant to the terms of this Contract; and

32 [3rd] WHEREAS, the rights to Project Water were acquired by the United States pursuant
33 to California law for operation of the Project; and

34 [4th] WHEREAS, the Contractor and the United States entered into Contract
35 No. 14-06-200-7081A, which established terms for the delivery to the Contractor of Project Water
36 from September 26, 1972, through December 31, 2008, hereinafter referred to as the Existing
37 Contract; and

38 [5th] WHEREAS, the United States and the Contractor have pursuant to Subsection
39 3404(c)(3) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into a
40 binding agreement identified as Binding Agreement No. 14-06-200-7081A-BA, which sets out the
41 terms pursuant to which the Contractor agreed to renew the Existing Contract before the expiration

42 date after completion of the Programmatic Environmental Impact Statement (PEIS) and other
43 appropriate environmental documentation and negotiation of a renewal contract; and which also sets
44 out the consequences of a subsequent decision not to renew; and

45 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal the
46 Existing Contract following completion of appropriate environmental documentation, including a
47 PEIS pursuant to the National Environmental Policy Act (NEPA) analyzing the direct and indirect
48 impacts and benefits of implementing the CVPIA and the potential renewal of all existing contracts
49 for Project Water; and

50 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
51 environmental review necessary to provide for long-term renewal of the Existing Contract; and

52 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing
53 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the
54 State of California, for water service from the Central Valley Project; and

55 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
56 its obligations under the Existing Contract; and

57 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
58 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and
59 beneficial use and/or has demonstrated projected future demand for water use such that the
60 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the
61 quantity of Project Water to be made available to it pursuant to this Contract; and

62 [11th] WHEREAS, water obtained from the Central Valley Project has been relied upon by
63 urban areas within California for more than 50 years, and is considered by the Contractor as an
64 essential portion of its water supply; and

65 [11.1] WHEREAS, at the time of execution of this Contract, the United States is the sole
66 source of water supply to the Contractor; and

67 [12th] WHEREAS, the economies of regions within the Central Valley Project, including the
68 Contractor's, depend upon the continued availability of water, including water service from the
69 Central Valley Project; and

70 [13th] WHEREAS, in the CALFED Programmatic Record of Decision, dated August 28,
71 2000, the United States and the State of California adopted a general target of continuously
72 improving Delta water quality for all uses. The CALFED Agencies, target for providing safe,
73 reliable, and affordable drinking water in a cost-effective way, is to achieve either: (a) average
74 concentrations at Clinton Forebay and other southern and central Delta drinking water intakes of 50
75 ug/L bromide and 3.0 mg/L total organic carbon, or (b) an equivalent level of public health protection
76 using a cost-effective combination of alternative source waters, source control and treatment
77 technologies; and

78 [14th] WHEREAS, the parties intend by this Contract to develop a more cooperative
79 relationship in order to achieve their mutual goals; and

80 [14.1] WHEREAS, the mutual goals of the United States and the Contractor include: to
81 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment
82 of the Project as required by law; to guard reasonably against Project Water shortages; to achieve a

83 reasonable balance among competing demands for use of Project Water; and to comply with all
84 applicable environmental statutes, all consistent with the legal obligations of the United States
85 relative to the Project; and

86 [15th] WHEREAS, the Contractor has utilized or may utilize transfers, contract assignments,
87 rescheduling and conveyance of Project Water and non-Project water under this Contract as tools to
88 minimize the impacts of Conditions of Shortage and to maximize the beneficial use of water; and

89 [15.1] WHEREAS, the parties desire and intend that this Contract not provide a disincentive
90 to the Contractor in continuing to carry out the beneficial activities set out in the Explanatory Recital
91 immediately above; and

92 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
93 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

94 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein
95 contained, it is hereby mutually agreed by the parties hereto as follows:

96 DEFINITIONS

97 1. When used herein unless otherwise distinctly expressed, or manifestly incompatible
98 with the intent of the parties as expressed in this Contract, the term:

99 (a) “Calendar Year” shall mean the period January 1 through December 31, both
100 dates inclusive;

101 (b) “Charges” shall mean the payments required by Federal Reclamation law in
102 addition to the Rates and Tiered Pricing Component specified in this Contract as determined annually
103 by the Contracting Officer pursuant to this Contract;

104 (c) "Condition of Shortage" shall mean a condition respecting the Project during
105 any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract
106 Total;

107 (d) "Contracting Officer" shall mean the Secretary of the Interior's duly
108 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law or
109 regulation;

110 (e) "Contract Total" shall mean the maximum amount of water to which the
111 Contractor is entitled under subdivision (a) of Article 3 of this Contract;

112 (f) "Contractor's Service Area" shall mean the area to which the Contractor is
113 permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto,
114 which may be modified from time to time in accordance with Article 35 of this Contract without
115 amendment of this Contract;

116 (g) "CVPIA" shall mean the Central Valley Project Improvement Act, Title
117 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

118 (g.1) "Delta Division Facilities" shall mean those existing and future Project
119 facilities in and south of the Sacramento-San Joaquin Rivers Delta, including, but not limited to, the
120 Tracy Pumping Plant, the O'Neill Forebay, the O'Neill Pumping/Generating Plant, and the San Luis
121 Reservoir, used to divert, store and convey water to those Project Contractors entitled to receive
122 water conveyed through the Delta-Mendota Canal;

123 (h-i) Omitted;

124 (j) "Full Cost Rate" shall mean an annual rate, as determined by the Contracting
125 Officer that shall amortize the expenditures for construction properly allocable to the Project
126 Irrigation or M&I functions, as appropriate, of facilities in service including all operation and
127 maintenance deficits funded, less payments, over such periods as may be required under Federal
128 Reclamation law, or applicable contract provisions. Interest will accrue on both the construction
129 expenditures and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or
130 from the date incurred in the case of costs arising subsequent to October 12, 1982, and shall be
131 calculated in accordance with subsections 202(3)(B) and (3)(C) of the RRA. The Full-Cost Rate
132 includes actual operation, maintenance, and replacement costs consistent with Section 426.2 of the
133 Rules and Regulations for the RRA;

134 (k-l) Omitted;

135 (m) "Irrigation Water" shall mean water made available from the Project that is
136 used primarily in the production of agricultural crops or livestock, including domestic use incidental
137 thereto, and watering of livestock;

138 (n) Omitted;

139 (o) "Municipal and Industrial (M&I) Water" shall mean Project Water, other than
140 Irrigation Water, made available to the Contractor. M&I Water shall include water used for human
141 use and purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are
142 kept for personal enjoyment or water delivered to landholdings operated in units of less than five
143 acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of
144 water delivered to any such landholding is a use described in subdivision (m) of this Article;

145 (p) "M&I Full Cost Water Rate" shall mean the Full Cost Rate applicable to the
146 delivery of M&I Water;

147 (q) "Operation and Maintenance" or "O&M" shall mean normal and reasonable
148 care, control, operation, repair, replacement (other than Capital replacement), and maintenance of
149 Project facilities;

150 (r) "Operating Non-Federal Entity" shall mean the entity(ies), its (their)
151 successors or assigns, which has (have) the obligation to operate and maintain all or a portion of the
152 Delta Division Facilities pursuant to written agreement(s) with the United States. When this Contract
153 was entered into, the Operating Non-Federal Entity(ies) was (were) the San Luis & Delta-Mendota
154 Water Authority, and with respect to the San Luis Unit facilities, the California Department of Water
155 Resources, and Westlands Water District;

156 (s) "Project" shall mean the Central Valley Project owned by the United States
157 and managed by the Department of the Interior, Bureau of Reclamation;

158 (t) "Project Contractors" shall mean all parties who have water service contracts
159 for Project Water from the Project with the United States pursuant to Federal Reclamation law;

160 (u) "Project Water" shall mean all water that is developed, diverted, stored, or
161 delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance
162 with the terms and conditions of water rights acquired pursuant to California law;

163 (v) "Rates" shall mean the payments determined annually by the Contracting
164 Officer in accordance with the then current applicable water ratesetting policies for the Project, as
165 described in subdivision (a) of Article 7 of this Contract;

166 (w) "Recent Historic Average" shall mean the most recent five-year average of the
167 final forecast of Water Made Available to the Contractor pursuant to this Contract or its preceding
168 contract(s);

169 (x) "Secretary" shall mean the Secretary of the Interior, a duly appointed
170 successor, or an authorized representative acting pursuant to any authority of the Secretary and
171 through any agency of the Department of the Interior;

172 (y) "Tiered Pricing Component" shall be the incremental amount to be paid for
173 each acre-foot of Water Delivered as described in subdivision (j) of Article 7 of this Contract;

174 (z) "Water Delivered" or "Delivered Water" shall mean Project Water diverted for
175 use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

176 (aa) "Water Made Available" shall mean the estimated amount of Project Water
177 that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer,
178 pursuant to subdivision (a) of Article 4 of this Contract;

179 (bb) "Water Scheduled" shall mean Project Water made available to the Contractor
180 for which times and quantities for delivery have been established by the Contractor and Contracting
181 Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

182 (cc) "Year" shall mean the period from and including March 1 of each Calendar
183 Year through the last day of February of the following Calendar Year.

184 TERM OF CONTRACT

185 2. (a) This Contract shall be effective March 1, 2005, through February 28 (29),
186 2045. This Contract, when effective, supersedes Part A of Contract No. 14-06-200-7081A, dated
187 September 26, 1972. In the event the Contractor wishes to renew the Contract beyond February 28
188 (29), 2045, the Contractor shall submit a request for renewal in writing to the Contracting Officer no
189 later than two years prior to the date this Contract expires.

190 (b) Omitted.

191 (c) This Contract, insofar as it pertains to the furnishing of M&I Water to the
192 Contractor, shall be renewed for successive periods of up to 40 years each, which periods shall be
193 consistent with the then-existing Reclamation-wide policy, under terms and conditions mutually
194 agreeable to the parties and consistent with Federal and State law. The Contractor shall be afforded
195 the opportunity to comment to the Contracting Officer on the proposed adoption and application of
196 any revised policy applicable to the delivery of M&I Water that would limit the term of any
197 subsequent renewal contract with the Contractor for the furnishing of M&I Water to less than 40
198 years.

199 (d) The Contracting Officer shall make a determination 10 years after the date of
200 execution of this Contract, and every 5 years thereafter during the term of this Contract, of whether a
201 conversion to a contract under subsection (c)(1) of Section 9 of the Reclamation Project Act of 1939
202 can be accomplished. The Contracting Officer anticipates that during the term of this contract, all
203 authorized project construction expected to occur will have occurred, and on that basis the
204 Contracting Officer agrees upon such completion to allocate all costs that are properly assignable to
205 the Contractor, and agrees further that, at any time after such allocation is made, and subject to

206 satisfaction of the conditions set out in this subdivision of this Article, this Contract shall, at the
207 request of the Contractor, be converted to a contract under said subsection (c)(1) of Section 9, subject
208 to applicable Federal law and under stated terms and conditions mutually agreeable to the Contractor
209 and the Contracting Officer. A condition for such conversion to occur shall be a determination by the
210 Contracting Officer that, account being taken of the amount credited to return by the Contractor as
211 provided for under Federal Reclamation law, the remaining amount of construction costs assignable
212 for ultimate return by the Contractor can probably be repaid to the United States within the term of a
213 contract under said subsection (c)(1) of Section 9. If the remaining amount of costs that are properly
214 assignable to the Contractor cannot be determined during the term of this Contract, the Contracting
215 Officer shall notify the Contractor, and provide the reason(s) why such a determination could not be
216 made. Further, the Contracting Officer shall make such a determination as soon thereafter as possible
217 so as to permit, upon request of the Contractor and satisfaction of the conditions set out above,
218 conversion to a contract under said subsection (c)(1) of Section 9.

219 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

220 3. (a) During each Year, consistent with all applicable State water rights, permits,
221 and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this
222 Contract, the Contracting Officer shall make available for delivery to the Contractor 3,000 acre-feet
223 of water for M&I purposes. Water Delivered to the Contractor in accordance with this subdivision
224 shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

225 (b) Because the capacity of the Central Valley Project to deliver Project Water has
226 been constrained in recent years and may be constrained in the future due to many factors including

227 hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor
228 actually receiving the amount of water set out in subdivision (a) of this Article in any given Year is
229 uncertain. The Contracting Officer's most recent modeling referenced in the PEIS projected that
230 Contract Total set forth in this Contract will not be available to the Contractor in many years. During
231 the most recent five years, the Recent Historic Average of water made available to the Contractor
232 was 2,742 acre-feet. Nothing in subdivision (b) of this Article shall affect the rights and obligations
233 of the parties under any provision of this Contract.

234 (c) The Contractor shall utilize the Project Water in accordance with all applicable
235 legal requirements.

236 (d) The Contractor shall make reasonable and beneficial use of all water furnished
237 pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in lieu), groundwater
238 banking programs, surface water storage programs, and other similar programs utilizing Project
239 Water or other water furnished pursuant to this Contract conducted within the Contractor's Service
240 Area which are consistent with applicable State law and result in use consistent with Federal
241 Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are) described in
242 the Contractor's water conservation plan submitted pursuant to Article 26 of this Contract; Provided,
243 further, That such water conservation plan demonstrates sufficient lawful uses exist in the
244 Contractor's Service Area so that using a long-term average, the quantity of Delivered Water is
245 demonstrated to be reasonable for such uses and in compliance with Federal Reclamation law.
246 Groundwater recharge programs, groundwater banking programs, surface water storage programs,
247 and other similar programs utilizing Project Water or other water furnished pursuant to this Contract

248 conducted outside the Contractor’s Service Area may be permitted upon written approval of the
249 Contracting Officer, which approval will be based upon environmental documentation, Project Water
250 rights, and Project operational concerns. The Contracting Officer will address such concerns in
251 regulations, policies, or guidelines.

252 (e) The Contractor shall comply with requirements applicable to the Contractor in
253 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract
254 undertaken pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended, that are
255 within the Contractor’s legal authority to implement. The Existing Contract, which evidences in
256 excess of 33 years of diversions for M&I purposes of the quantities of water provided in subdivision
257 (a) of Article 3 of this Contract, will be considered in developing an appropriate baseline for the
258 biological assessment prepared pursuant to the ESA and any other needed environmental review.
259 Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial
260 relief in a court of competent jurisdiction with respect to any biological opinion or other
261 environmental documentation referred to in this Article.

262 (f) Following the declaration of Water Made Available under Article 4 of this
263 Contact, the Contracting Officer will make a determination whether Project Water, or other water
264 available to the Project, can be made available to the Contractor in addition to the Contract Total
265 under Article 3 of this Article during the Year without adversely impacting other Project Contractors.
266 At the request of the Contractor, the Contracting Officer will consult with the Contractor prior to
267 making such a determination. If the Contracting Officer determines that Project Water, or other
268 water available to the Project, can be made available to the Contractor, the Contracting Officer will

269 announce the availability of such water and shall so notify the Contractor as soon as practical. The
270 Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable of
271 taking such water to determine the most equitable and efficient allocation of such water. If the
272 Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make
273 such water available to the Contractor in accordance with applicable statutes, regulations, guidelines,
274 and policies.

275 (g) The Contractor may request permission to reschedule for use during the
276 subsequent Year some or all of the Water Made Available to the Contractor during the current Year
277 referred to as “rescheduled water”. The Contractor may request permission to use during the current
278 Year a quantity of Project Water which may be made available by the United States to the Contractor
279 during the subsequent Year referred to as “preuse”. The Contracting Officer’s written approval may
280 permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.
281 Subject to existing long-term contractual commitments, water rights and operational constraints,
282 long-term Project Contractors shall have a first right to acquire such water, including Project Water
283 made available pursuant to Section 215 of the RRA.

284 (h) The Contractor’s right pursuant to Federal Reclamation law and applicable
285 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract during the
286 term thereof and any subsequent renewal contracts, as described in Article 2 of this Contract, during
287 the terms thereof shall not be disturbed so long as the Contractor shall fulfill all of its obligations
288 under this Contract and any renewals thereof. Nothing in the preceding sentence shall affect the
289 Contracting Officer’s ability to impose shortages under Article 11 or subdivision (b) of Article 12 of

290 this Contract or applicable provisions of any subsequent renewal contracts.

291 (i) Project Water furnished to the Contractor pursuant to this Contract may be
292 delivered for purposes other than those described in subdivision (o) of Article 1 of this Contract upon
293 written approval by the Contracting Officer in accordance with the terms and conditions of such
294 approval.

295 (j) The Contracting Officer shall make reasonable efforts to protect the water
296 rights necessary for the Project and to provide the water available under this Contract. The
297 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the
298 extent permitted by law, in administrative proceedings related to the Project Water rights; Provided,
299 that the Contracting Officer retains the right to object to the substance of the Contractor's position in
300 such a proceeding; Provided further, That in such proceedings the Contracting Officer shall recognize
301 the Contractor has a legal right under the terms of this Contract to use Project Water.

302 TIME FOR DELIVERY OF WATER

303 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall
304 announce the Contracting Officer's expected declaration of the Water Made Available. Such
305 declaration will be expressed in terms of both Water Made Available and the Recent Historic
306 Average and will be updated monthly, and more frequently if necessary, based on then-current
307 operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made
308 Available will be made. The Contracting Officer shall provide forecasts of Project operations and the
309 basis of the estimate, with relevant supporting information, upon the written request of the

310 Contractor. Concurrently with the declaration of the Water Made Available, the Contracting Officer
311 shall provide the Contractor with the updated Recent Historic Average.

312 (b) On or before each March 1 and at such other times as necessary, the Contractor
313 shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer,
314 showing the monthly quantities of Project Water to be delivered by the United States to the
315 Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting
316 Officer shall use all reasonable means to deliver Project Water according to the approved schedule
317 for the Year commencing on such March 1.

318 (c) The Contractor shall not schedule Project Water in excess of the quantity of
319 Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's
320 Service Area or to sell, transfer or exchange pursuant to Article 9 of this Contract during any Year.

321 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
322 Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial
323 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written
324 revision(s) thereto satisfactory to the Contracting Officer, submitted within a reasonable time prior to
325 the date(s) on which the requested change(s) is/are to be implemented.

326 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

327 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
328 Contract shall be delivered to the Contractor at Project facilities and any additional point or points of
329 delivery either on Project facilities or another location or locations mutually agreed to in writing by
330 the Contracting Officer and the Contractor.

331 (b) The Contracting Officer, either directly or indirectly through its written
332 agreements(s) with the Operating Non-Federal Entity(ies), shall make all reasonable efforts to
333 maintain sufficient flows and levels of water in the Project facilities to deliver Project Water to the
334 Contractor at the point or points of delivery established pursuant to subdivision (a) of this Article.

335 (c) The Contractor shall not deliver Project Water to land outside the Contractor's
336 Service Area unless approved in advance by the Contracting Officer.

337 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
338 measured and recorded with equipment furnished, installed, operated, and maintained by the
339 Contracting Officer either directly or indirectly through its written agreements(s) with the Operating
340 Non-Federal Entity(ies), unless undertaken by the Contractor with the consent of the Contracting
341 Officer at the point or points of delivery established pursuant to subdivision (a) of this Article. Upon
342 the request of either party to this Contract, the Contracting Officer shall investigate, or cause to be
343 investigated by the appropriate Operating Non-Federal Entity(ies) the accuracy of such
344 measurements and shall take any necessary steps to adjust any errors appearing therein. For any
345 period of time when accurate measurements have not been made, the Contracting Officer shall
346 consult with the Contractor and the appropriate Operating Non-Federal Entity(ies), if any, prior to
347 making a final determination of the quantity delivered for that period of time.

348 (e) Absent a separate contrary written agreement with the Contractor, neither the
349 Contracting Officer nor any Operating Non-Federal Entity(ies) shall be responsible for the control,
350 carriage, handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this
351 Contract beyond the point or points of delivery established pursuant to subdivision (a) of this Article.

352 The Contractor shall indemnify the United States, its officers, employees, agents, and assigns on
353 account of damage or claim of damage of any nature whatsoever for which there is legal
354 responsibility, including property damage, personal injury, or death arising out of or connected with
355 the control, carriage, handling, use, disposal, or distribution of such Water Delivered beyond such
356 point or points of delivery except for any damage or claim arising out of: (i) acts or omissions of the
357 Contracting Officer or any of its officers, employees, agents, and assigns, including any responsible
358 Operating Non-Federal Entity(ies), with the intent of creating the situation resulting in any damage or
359 claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents, and
360 assigns, including any responsible Operating Non-Federal Entity; (iii) negligence of the Contracting
361 Officer or any of its officers, employees, agents, and assigns including the Operating Non-Federal
362 Entity(ies); or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated
363 by the United States or responsible Operating Non-Federal Entity(ies).

364 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

365 6. (a) The Contractor has established a measuring program satisfactory to the
366 Contracting Officer. The Contractor shall ensure that, unless the Contractor establishes an alternative
367 measurement program satisfactory to the Contracting Officer, all surface water delivered for M&I
368 purposes is measured at each M&I service connection. The water measuring devices or water
369 measuring methods of comparable effectiveness must be acceptable to the Contracting Officer. The
370 Contractor shall be responsible for installing, operating, and maintaining and repairing all such
371 measuring devices and implementing all such water measuring methods at no cost to the United
372 States. The Contractor shall use the information obtained from such water measuring devices or

373 water measuring methods to ensure its proper management of the water; to bill water users for water
374 delivered by the Contractor; and, if applicable, to record water delivered for M&I purposes by
375 customer class as defined in the Contractor's water conservation plan provided for in Article 26 of
376 this Contract. Nothing herein contained, however, shall preclude the Contractor from establishing
377 and collecting any charges, assessments, or other revenues authorized by California law. The
378 Contractor shall include a summary of all its annual surface water deliveries in the annual report
379 described in subdivision (c) of Article 26.

380 (b) To the extent the information has not otherwise been provided, upon execution
381 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing
382 the measurement devices or water measuring methods being used or to be used to implement
383 subdivision (a) of this Article and identifying the M&I service connections or alternative
384 measurement programs approved by the Contracting Officer, at which such measurement devices or
385 water measuring methods are being used, and, if applicable, identifying the locations at which such
386 devices and/or methods are not yet being used including a time schedule for implementation at such
387 locations. The Contracting Officer shall advise the Contractor in writing within 60 days as to the
388 adequacy and necessary modifications, if any, of the measuring devices or water measuring methods
389 identified in the Contractor's report and if the Contracting Officer does not respond in such time, they
390 shall be deemed adequate. If the Contracting Officer notifies the Contractor that the measuring
391 devices or methods are inadequate, the parties shall within 60 days following the Contracting
392 Officer's response, negotiate in good faith the earliest practicable date by which the Contractor shall
393 modify said measuring devices and/or measuring methods as required by the Contracting Officer to

394 ensure compliance with subdivision (a) of this Article.

395 (c) All new surface water delivery systems installed within the Contractor's
396 Service Area after the effective date of this Contract shall also comply with the measurement
397 provisions described in subdivision (a) of this Article.

398 (d) The Contractor shall inform the Contracting Officer and the State of California
399 in writing by April 30 of each Year of the monthly volume of surface water delivered within the
400 Contractor's Service Area during the previous Year.

401 (e) The Contractor shall inform the Contracting Officer and the Operating Non-
402 Federal Entity on or before the 20th calendar day of each month of the quantity of M&I Water taken
403 during the preceding month.

404 RATES AND METHOD OF PAYMENT FOR WATER

405 7. (a) The Contractor shall pay the United States as provided in this Article for all
406 Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance
407 with: (i) the Secretary's then-existing ratesetting policy for M&I Water. Such ratesetting policies
408 shall be amended, modified, or superceded only through a public notice and comment procedure; (ii)
409 applicable Federal Reclamation law and associated rules and regulations, or policies; and (iii) other
410 applicable provisions of this Contract. Payments shall be made by cash transaction, electronic funds
411 transfer, or any other mechanism as may be agreed to in writing by the Contractor and the
412 Contracting Officer. The Rates, Charges, and Tiered Pricing Component applicable to the Contractor
413 upon execution of this Contract are set forth in Exhibit "B," as may be revised annually.

414 (b) The Contracting Officer shall notify the Contractor of the Rates, Charges, and
415 Tiered Pricing Component as follows:

416 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
417 provide the Contractor an estimate of the Charges for Project Water that will be applied to the period
418 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and
419 the basis for such estimate. The Contractor shall be allowed not less than two months to review and
420 comment on such estimates. On or before September 15 of each Calendar Year, the Contracting
421 Officer shall notify the Contractor in writing of the Charges to be in effect during the period
422 October 1 of the current Calendar Year, through September 30, of the following Calendar Year, and
423 such notification shall revise Exhibit "B."

424 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall make
425 available to the Contractor an estimate of the Rates and Tiered Pricing Component for Project Water
426 for the following Year and the computations and cost allocations upon which those Rates are based.
427 The Contractor shall be allowed not less than two months to review and comment on such
428 computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer
429 shall provide the Contractor with the final Rates and Tiered Pricing Component to be in effect for the
430 upcoming Year, and such notification shall revise Exhibit "B."

431 (c) At the time the Contractor submits the initial schedule for the delivery of
432 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
433 shall make an advance payment to the United States equal to the total amount payable pursuant to the
434 applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be

435 delivered pursuant to this Contract during the first two calendar months of the Year. Before the end
436 of the first month and before the end of each calendar month thereafter, the Contractor shall make an
437 advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for the
438 Water Scheduled to be delivered pursuant to this Contract during the second month immediately
439 following. Adjustments between advance payments for Water Scheduled and payments at Rates due
440 for Water Delivered shall be made before the end of the following month; Provided, That any revised
441 schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the
442 amount of Water Delivered pursuant to this Contract during any month shall be accompanied with
443 appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered
444 to the Contractor in advance of such payment. In any month in which the quantity of Water
445 Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid
446 for by the Contractor, no additional Project Water shall be delivered to the Contractor unless and
447 until an advance payment at the Rates then in effect for such additional Project Water is made. Final
448 adjustment between the advance payments for the Water Scheduled and payments for the quantities
449 of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable
450 but no later than April 30th of the following Year, or 60 days after the delivery of Project Water
451 rescheduled under subdivision (g) of Article 3 of this Contract if such water is not delivered by the
452 last day of February.

453 (d) The Contractor shall also make a payment in addition to the Rate(s) in
454 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the
455 appropriate Tiered Pricing Component then in effect, before the end of the month of delivery. The

456 payments shall be consistent with the quantities of M&I Water Delivered as shown in the water
457 delivery report for the subject month prepared by the Operating Non-Federal Entity(ies) or, if there is
458 no Operating Non-Federal Entity, by the Contracting Officer. The water delivery report shall be
459 deemed a bill for the payment of Charges and the applicable Tiered Pricing Component for Water
460 Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the
461 adjustment of payments due to the United States for Charges for the next month. Any amount to be
462 paid for past due payment of Charges and the Tiered Pricing Component shall be computed pursuant
463 to Article 20 of this Contract.

464 (e) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or
465 (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable
466 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;
467 Provided, That the Rate for Water Delivered under subdivision (d) or (f) of Article 3 of this Contract
468 shall be no more than the otherwise applicable Rate for M&I Water under subdivision (a) of this
469 Article.

470 (f) Payments to be made by the Contractor to the United States under this
471 Contract may be paid from any revenues available to the Contractor.

472 (g) All revenues received by the United States from the Contractor relating to the
473 delivery of Project Water or the delivery of non-Project water through Project facilities shall be
474 allocated and applied in accordance with Federal Reclamation law and the associated rules or
475 regulations, and the then current Project ratesetting policies for M&I Water.

476 (h) The Contracting Officer shall keep its accounts pertaining to the administration

477 of the financial terms and conditions of its long-term contracts, in accordance with applicable Federal
478 standards, so as to reflect the application of Project costs and revenues. The Contracting Officer
479 shall, each Year upon request of the Contractor, provide to the Contractor a detailed accounting of all
480 Project and Contractor expense allocations, the disposition of all Project and Contractor revenues,
481 and a summary of all water delivery information. The Contracting Officer and the Contractor shall
482 enter into good faith negotiations to resolve any discrepancies or disputes relating to accountings,
483 reports, or information.

484 (i) The parties acknowledge and agree that the efficient administration of this
485 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
486 policies, and procedures used for establishing Rates, Charges, and the Tiered Pricing Component,
487 and/or for making and allocating payments, other than those set forth in this Article may be in the
488 mutual best interest of the parties, it is expressly agreed that the parties may enter into agreements to
489 modify the mechanisms, policies, and procedures for any of those purposes while this Contract is in
490 effect without amending this Contract.

491 (j) (1) Beginning at such time as deliveries of Project Water in a Year exceed
492 80 percent of the Contract Total, then before the end of the month following the month of delivery
493 the Contractor shall make an additional payment to the United States equal to the applicable Tiered
494 Pricing Component. The Tiered Pricing Component for the amount of Water Delivered in excess of
495 80 percent of the Contract Total, but less than or equal to 90 percent of the Contract Total, shall equal
496 the one-half of the difference between the Rate established under subdivision (a) of this Article and
497 the M&I Full Cost Water Rate. The Tiered Pricing Component for the amount of Water Delivered

498 which exceeds 90 percent of the Contract Total shall equal the difference between (i) the Rate
499 established under subdivision (a) of this Article and (ii) the M&I Full Cost Water Rate.

500 (2) Omitted.

501 (3) For purposes of determining the applicability of the Tiered Pricing
502 Component pursuant to this Article, Water Delivered shall include Project Water that the Contractor
503 transfers to others but shall not include Project Water transferred and delivered to the Contractor, nor
504 shall it include the additional water provided to the Contractor under the provisions of subdivision (f)
505 of Article 3 of this Contract.

506 (k) For the term of this Contract, Rates applied under the respective ratesetting
507 policies will be established to recover only reimbursable O&M (including any deficits) and capital
508 costs of the Project, as those terms are used in the then-current Project ratesetting policies, and
509 interest, where appropriate, except in instances where a minimum Rate is applicable in accordance
510 with the relevant Project ratesetting policy. Changes of significance in practices which implement
511 the Contracting Officer's ratesetting policies will not be implemented until the Contracting Officer
512 has provided the Contractor an opportunity to discuss the nature, need, and impact of the proposed
513 change.

514 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
515 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted
516 upward or downward to reflect the changed costs of delivery (if any) of the transferred Project Water
517 to the transferee's point of delivery in accordance with the then applicable CVP Ratesetting Policy.

(m) Omitted.

518 (n) The Contractor asserts that it is not legally obligated to pay any Project deficits
519 claimed by the United States to have accrued as of the date of this Contract or deficit-related interest
520 charges thereon. By entering into this Contract, the Contractor does not waive any legal rights or
521 remedies that it may have with respect to such disputed issues. Notwithstanding the execution of this
522 Contract and payments made hereunder, the Contractor may challenge in the appropriate
523 administrative or judicial forums: (1) the existence, computation, or imposition of any deficit
524 charges accruing during the term of the Existing Contract and any preceding interim renewal
525 contracts, if applicable; (2) interest accruing on any such deficits; (3) the inclusion of any such deficit
526 charges or interest in the Rates; (4) the application by the United States of payments made by the
527 Contractor under its Existing Contract and any preceding interim renewal contracts, if applicable; and
528 (5) the application of such payments in the Rates. The Contracting Officer agrees that the Contractor
529 shall be entitled to the benefit of any administrative or judicial ruling in favor of any Project M&I
530 contractor on any of these issues, and credits for payments heretofore made, provided that the basis
531 for such ruling is applicable to the Contractor.

532 8. Omitted.

533 SALES, TRANSFERS, OR EXCHANGES OF WATER

534 9. (a) The right to receive Project Water provided for in this Contract may be sold,
535 transferred, or exchanged to others for reasonable and beneficial uses within the State of California if
536 such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable
537 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this
538 Contract may take place without the prior written approval of the Contracting Officer, except as

539 provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be
540 approved absent all appropriate environmental documentation, including but not limited to
541 documents prepared pursuant to the NEPA and the ESA. Such environmental documentation should
542 include, as appropriate, an analysis of groundwater impacts and economic and social effects,
543 including environmental justice, of the proposed water transfers on both the transferor and transferee.

544 (b) In order to facilitate efficient water management by means of water transfers of
545 the type historically carried out among Project Contractors located within the same geographical area
546 and to allow the Contractor to participate in an accelerated water transfer program during the term of
547 this Contract, the Contracting Officer shall prepare, as appropriate, all necessary environmental
548 documentation including, but not limited to documents prepared pursuant to the NEPA and the ESA
549 analyzing annual transfers within such geographical areas and the Contracting Officer shall
550 determine whether such transfers comply with applicable law. Following the completion of the
551 environmental documentation, such transfers addressed in such documentation shall be conducted
552 with advance notice to the Contracting Officer, but shall not require prior written approval by the
553 Contracting Officer. Such environmental documentation and the Contracting Officer's compliance
554 determination shall be reviewed every five years and updated, as necessary, prior to the expiration of
555 the then existing five-year period. All subsequent environmental documentation shall include an
556 alternative to evaluate not less than the quantity of Project Water historically transferred within the
557 same geographical area.

558 (c) For a water transfer to qualify under subdivision (b) of this Article, such water
559 transfer must: (i) be for irrigation purposes for lands irrigated within the previous three years, for

560 M&I use, groundwater recharge, groundwater banking, or similar groundwater activities, surface
561 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to
562 established cropland, wildlife refuges, groundwater basins or M&I use; (ii) occur within a single
563 Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water through existing
564 facilities with no new construction or modifications to facilities and be between existing Project
565 Contractors and/or the Contractor and the United States, Department of the Interior; and (v) comply
566 with all applicable Federal, State, and local or tribal laws and requirements imposed for protection of
567 the environment and Indian Trust Assets, as defined under Federal law.

568 APPLICATION OF PAYMENTS AND ADJUSTMENTS

569 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
570 Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of
571 the Contractor arising out of this Contract then due and payable. Overpayments of more than \$1,000
572 shall be refunded at the Contractor's request. In lieu of a refund, any amount of such overpayment at
573 the option of the Contractor, may be credited against amounts to become due to the United States by
574 the Contractor. With respect to overpayment, such refund or adjustment shall constitute the sole
575 remedy of the Contractor or anyone having or claiming to have the right to the use of any of the
576 Project Water supply provided for herein. All credits and refunds of overpayments shall be made
577 within 30 days of the Contracting Officer obtaining direction as to how to credit or refund such
578 overpayment in response to the notice to the Contractor that it has finalized the accounts for the Year
579 in which the overpayment was made.

580 (b) All advances for miscellaneous costs incurred for work requested by the

581 Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when
582 the work has been completed. If the advances exceed the actual costs incurred, the difference will be
583 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will
584 be billed for the additional costs pursuant to Article 25 of this Contract.

585 TEMPORARY REDUCTIONS--RETURN FLOWS

586 11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the
587 requirements of Federal law and (ii) the obligations of the United States under existing contracts, or
588 renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make
589 all reasonable efforts to optimize Project Water deliveries to the Contractor as provided in this
590 Contract.

591 (b) The Contracting Officer or Operating Non-Federal Entity(ies) may temporarily
592 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the
593 purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project
594 facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far
595 as feasible the Contracting Officer or Operating Non-Federal Entity(ies) will give the Contractor due
596 notice in advance of such temporary discontinuance or reduction, except in case of emergency, in
597 which case no notice need be given; Provided, That the United States shall use its best efforts to
598 avoid any discontinuance or reduction in such service. Upon resumption of service after such
599 reduction or discontinuance, and if requested by the Contractor, the United States will, if possible,
600 deliver the
601 quantity of Project Water which would have been delivered hereunder in the absence of such

602 discontinuance or reduction.

603 (c) The United States reserves the right to all seepage and return flow water
604 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the
605 Contractor's Service Area; Provided, That this shall not be construed as claiming for the United
606 States any right as seepage or return flow being put to reasonable and beneficial use pursuant to this
607 Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or
608 under the Contractor.

609 CONSTRAINTS ON THE AVAILABILITY OF WATER

610 12. (a) In its operation of the Project, the Contracting Officer will use all reasonable
611 means to guard against a Condition of Shortage in the quantity of water to be made available to the
612 Contractor pursuant to this Contract. In the event the Contracting Officer determines that a
613 Condition of Shortage appears probable, the Contracting Officer will notify the Contractor of said
614 determination as soon as practicable.

615 (b) If there is a Condition of Shortage because of errors in physical operations of
616 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions
617 taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision (a)
618 of Article 18 of this Contract, no liability shall accrue against the United States or any of its officers,
619 agents, or employees for any damage, direct or indirect, arising therefrom.

620 (c) Omitted.

621 (d) Project Water furnished under this Contract will be allocated in accordance
622 with the then-existing Central Valley Project M&I Water Shortage Policy. Such policy shall be

623 amended, modified, or superceded only through a public notice and comment procedure.

624 (e) By entering into this Contract, the Contractor does not waive any legal rights
625 or remedies it may have to file or participate in any administrative or judicial proceeding contesting
626 (i) the sufficiency of the Central Valley Project M&I Water Shortage Policy; (ii) the substance of
627 such a policy; (iii) the applicability of such a policy; or (iv) the manner in which such policy is
628 implemented in order to allocate Project Water between M&I and irrigation purposes; Provided, That
629 the Contractor has commenced any such judicial challenge or any administrative procedures
630 necessary to institute any judicial challenge within six months of the policy becoming final. By
631 agreeing to the foregoing, the Contracting Officer does not waive any legal defenses or remedies that
632 it may have to assert in such a proceeding. Nothing contained herein shall be interpreted to validate
633 or invalidate the Central Valley Project M&I Water Shortage Policy.

634 13. Omitted

635 RULES AND REGULATIONS

636 14. The parties agree that the delivery of M&I Water or use of Federal facilities pursuant
637 to this Contract is subject to the applicable provisions of Federal Reclamation law and any applicable
638 rules and regulations promulgated by the Secretary of the Interior under such law.

639 WATER AND AIR POLLUTION CONTROL

640 15. The Contractor, in carrying out this Contract, shall comply with all applicable water
641 and air pollution laws and regulations of the United States and the State of California, and shall
642 obtain all required permits or licenses from the appropriate Federal, State, or local authorities.

643 QUALITY OF WATER

644 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to

645 this Contract shall be operated and maintained to enable the United States to deliver Project Water to
646 the Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act
647 of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat.
648 3050) or other existing Federal laws. The United States is under no obligation to construct or furnish
649 water treatment facilities to maintain or to improve the quality of Water Delivered to the Contractor
650 pursuant to this Contract. The United States does not warrant the quality of Water Delivered to the
651 Contractor pursuant to this Contract.

652 (b) The O&M of Project facilities shall be performed in such manner as is
653 practicable to maintain the quality of raw water made available through such facilities at the highest
654 level reasonably attainable as determined by the Contracting Officer

655 WATER ACQUIRED BY THE CONTRACTOR
656 OTHER THAN FROM THE UNITED STATES

657 17. (a) Omitted.

658 (b) Water or water rights now owned or hereafter acquired by the Contractor,
659 other than from the United States, may be stored, conveyed and/or diverted through Project facilities,
660 subject to the completion of appropriate environmental documentation, with the approval of the
661 Contracting Officer and the execution of any contract determined by the Contracting Officer to be
662 necessary, consistent with the following provisions:

663 (1) The Contractor may introduce non-Project water into Project facilities
664 and deliver said water to lands within the Contractor's Service Area, subject to payment to the United
665 States and/or to any applicable Operating Non-Federal Entity of an appropriate rate as determined by
666 the CVP Ratesetting Policy and the RRA each as amended, modified or superceded from time to

667 time. In addition, if electrical power is required to pump non-Project water through the facilities, the
668 Contractor shall be responsible for obtaining the necessary power and paying the necessary charges
669 therefore.

670 (2) Delivery of such non-Project water in and through Project facilities
671 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as
672 determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other
673 Project water service contractors; (iii) interfere with the delivery of contractual water entitlements to
674 any other Project water service contractors; or (iv) interfere with the physical maintenance of the
675 Project facilities.

676 (3) Neither the United States nor the Operating Non-Federal Entity(ies)
677 shall be responsible for control, care or distribution of the non-Project water before it is introduced
678 into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to
679 defend and indemnify the United States and the Operating Non-Federal Entity(ies), and their
680 respective officers, agents, and employees, from any claim for damage to persons or property, direct
681 or indirect, resulting from the acts(s) the Contractor or its officers, employees, agents, or assigns, in
682 (i) extracting or diverting non-Project water from any source, or (ii) diverting such non-Project water
683 into Project facilities.

684 (4) Diversion of such non-Project water into Project facilities shall be
685 consistent with all applicable laws, and if involving groundwater, consistent with any applicable
686 groundwater management plan for the area from which it was extracted.

687 (5) After Project purposes are met, as determined by the Contracting

688 Officer, the United States and the Project Contractors entitled to Project Water from Delta Division
689 Facilities shall share priority to utilize the remaining capacity of the facilities declared to be
690 available by the Contracting Officer for conveyance and transportation of non-Project water prior to
691 any such remaining capacity being made available to non-Project contractors. Other Project
692 Contractors shall have a second priority to any remaining capacity of facilities declared to be
693 available by the Contracting Officer for conveyance and transportation of non-Project water prior to
694 any such remaining capacity being made available to non-Project contractors.

695 OPINIONS AND DETERMINATIONS

696 18. (a) Where the terms of this Contract provide for actions to be based upon the
697 opinion or determination of either party to this Contract, said terms shall not be construed as
698 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
699 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
700 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
701 unreasonable opinion or determination. Each opinion or determination by either party shall be
702 provided in a timely manner. Nothing in this subdivision (a) of this Article is intended to or shall
703 affect or alter the standard of judicial review applicable under Federal law to any opinion or
704 determination implementing a specific provision of Federal law embodied in statute or regulation.

705 (b) The Contracting Officer shall have the right to make determinations necessary
706 to administer this Contract that are consistent with the expressed and implied provisions of this
707 Contract, the laws of the United States and of the State of California, and the rules and regulations
708 promulgated by the Secretary of the Interior. Such determinations shall be made in consultation with

709 the Contractor to the extent reasonably practicable.

710 COORDINATION AND COOPERATION

711 19. (a) In order to further their mutual goals and objectives, the Contracting Officer
712 and the Contractor shall communicate, coordinate, and cooperate with each other, and with other
713 affected Project Contractors, in order to improve the operation and management of the Project. The
714 communication, coordination, and cooperation regarding operations and management shall include,
715 but not be limited to, any action which will or may materially affect the quantity or quality of Project
716 Water supply, the allocation of Project Water supply, and Project financial matters including, but not
717 limited to, budget issues. The communication, coordination, and cooperation provided for hereunder
718 shall extend to all provisions of this Contract. Each party shall retain exclusive decision making
719 authority for all actions, opinion, and determinations to be made by the respective party.

720 (b) Within 120 days following the effective date of this Contract, the Contractor,
721 other affected Project Contractors, and the Contracting Officer shall arrange to meet with interested
722 Project Contractors to develop a mutually agreeable, written Project-wide process, which may be
723 amended as necessary separate and apart from this Contract. The goal of this process shall be to
724 provide, to the extent practicable, the means of mutual communication and interaction regarding
725 significant decisions concerning Project operation and management on a real-time basis.

726 (c) In light of the factors referred to in subdivision (b) of Article 3 of this
727 Contract, it is the intent of the Secretary to improve water supply reliability. To carry out this intent:

728 (1) The Contracting Officer will, at the request of the Contractor, assist in
729 the development of integrated resource management plans for the Contractor. Further, the
730 Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to
731 improve water supply, water quality, and reliability.

732 (2) The Secretary will, as appropriate, pursue program and project
733 implementation and authorization in coordination with Project Contractors to improve the water
734 supply, water quality, and reliability of the Project for all Project purposes.

735 (3) The Secretary will coordinate with Project Contractors and the State of
736 California to seek improved water resource management.

737 (4) The Secretary will coordinate actions of agencies within the
738 Department of the Interior that may impact the availability of water for Project purposes.

739 (5) The Contracting Officer shall periodically, but not less than annually,
740 hold division level meetings to discuss Project operations, division level water management
741 activities, and other issues as appropriate.

742 (d) Without limiting the contractual obligations of the Contracting Officer under
743 the other Articles of this Contract, nothing in this Article shall be construed to limit or constrain the
744 Contracting Officer's ability to communicate, coordinate, and cooperate with the Contractor or other
745 interested stakeholders or to make decisions in a timely fashion as needed to protect health, safety, or
746 physical integrity of structures or facilities.

747 CHARGES FOR DELINQUENT PAYMENTS

748 20. (a) The Contractor shall be subject to interest, administrative and penalty charges

749 on delinquent installments or payments. When a payment is not received by the due date, the
750 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
751 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
752 charge to cover additional costs of billing and processing the delinquent payment. When a payment
753 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of

754 six (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the
755 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
756 payment.

757 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in
758 the Federal Register by the Department of the Treasury for application to overdue payments, or the
759 interest rate of one-half of one (0.5%) percent per month prescribed by Section 6 of the Reclamation
760 Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due
761 date and remain fixed for the duration of the delinquent period.

762 (c) When a partial payment on a delinquent account is received, the amount
763 received shall be applied, first to the penalty, second to the administrative charges, third to the
764 accrued interest, and finally to the overdue payment.

765 EQUAL OPPORTUNITY

766
767 21. During the performance of this Contract, the Contractor agrees as follows:

768 (a) The Contractor will not discriminate against any employee or applicant for
769 employment because of race, color, religion, sex, or national origin. The Contractor will take
770 affirmative action to ensure that applicants are employed, and that employees are treated during
771 employment, without regard to their race, color, religion, sex, or national origin. Such action shall
772 include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;
773 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of
774 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in
775 conspicuous places, available to employees and applicants for employment, notices to be provided by
776 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

777 (b) The Contractor will, in all solicitations or advertisements for employees placed
778 by or on behalf of the Contractor, state that all qualified applicants will receive consideration for
779 employment without discrimination because of race, color, religion, sex, or national origin.

780 (c) The Contractor will send to each labor union or representative of workers with
781 which it has a collective bargaining agreement or other contract or understanding, a notice, to be
782 provided by the Contracting Officer, advising the said labor union or workers' representative of the
783 Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and
784 shall post copies of the notice in conspicuous places available to employees and applicants for

785 employment.

786 (d) The Contractor will comply with all provisions of Executive Order No. 11246
787 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary
788 of Labor.

789 (e) The Contractor will furnish all information and reports required by said
790 amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or
791 pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Officer
792 and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules,
793 regulations, and orders.

794 (f) In the event of the Contractor's noncompliance with the nondiscrimination
795 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be
796 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible
797 for further Government contracts in accordance with procedures authorized in said amended
798 Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said
799 Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided
800 by law.

801 (g) The Contractor will include the provisions of paragraphs (a) through (g) in
802 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
803 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such
804 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action
805 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a
806 means of enforcing such provisions, including sanctions for noncompliance: Provided, however,
807 That in the event the Contractor becomes involved in, or is threatened with, litigation with a
808 subcontractor or vendor as a result of such direction, the Contractor may request the United States to
809 enter into such litigation to protect the interests of the United States.

810 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

811 22. (a) The obligation of the Contractor to pay the United States as provided in this
812 Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation
813 may be distributed among the Contractor's water users and notwithstanding the default of individual
814 water users in their obligations to the Contractor.

815 (b) The payment of charges becoming due hereunder is a condition precedent to
816 receiving benefits under this Contract. The United States shall not make water available to the
817 Contractor through Project facilities during any period in which the Contractor may be in arrears in
818 the advance payment of water rates due the United States. The Contractor shall not furnish water
819 made available pursuant to this Contract for lands or parties which are in arrears in the advance
820 payment of water rates levied or established by the Contractor.

821 (c) With respect to subdivision (b) of this Article, the Contractor shall have no
822 obligation to require advance payment for water rates which it levies.

823 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

824 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42
825 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age
826 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as
827 well as with their respective implementing regulations and guidelines imposed by the U.S.
828 Department of the Interior and/or Bureau of Reclamation.

829 (b) These statutes require that no person in the United States shall, on the grounds
830 of race, color, national origin, handicap, or age, be excluded from participation in, be denied the
831 benefits of, or be otherwise subjected to discrimination under any program or activity receiving
832 financial assistance from the Bureau of Reclamation. By executing this Contract, the Contractor
833 agrees to immediately take any measures necessary to implement this obligation, including
834 permitting officials of the United States to inspect premises, programs, and documents.

835 (c) The Contractor makes this agreement in consideration of and for the purpose
836 of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial
837 assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including
838 installment payments after such date on account of arrangements for Federal financial assistance
839 which were approved before such date. The Contractor recognizes and agrees that such Federal
840 assistance will be extended in reliance on the representations and agreements made in this Article,
841 and that the United States reserves the right to seek judicial enforcement thereof.

842 24. Omitted.

843 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

844 25. In addition to all other payments to be made by the Contractor pursuant to this
845 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and
846 detailed statement submitted by the Contracting Officer to the Contractor for such specific items of
847 direct cost incurred by the United States for work requested by the Contractor associated with this
848 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and

849 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in
850 writing in advance by the Contractor. This Article shall not apply to costs for routine contract
851 administration.

852 WATER CONSERVATION

853 26. (a) Prior to the delivery of water provided from or conveyed through Federally
854 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
855 implementing an effective water conservation and efficiency program based on the Contractor's water
856 conservation plan that has been determined by the Contracting Officer to meet the conservation and
857 efficiency criteria for evaluating water conservation plans established under Federal law. The water
858 conservation and efficiency program shall contain definite water conservation objectives, appropriate
859 economically feasible water conservation measures, and time schedules for meeting those objectives.
860 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's
861 continued implementation of such water conservation program. In the event the Contractor's water
862 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of
863 this Article 26 have not yet been determined by the Contracting Officer to meet such criteria, due to
864 circumstances which the Contracting Officer determines are beyond the control of the Contractor,
865 water deliveries shall be made under this Contract so long as the Contractor diligently works with the
866 Contracting Officer to obtain such determination at the earliest practicable date, and thereafter the
867 Contractor immediately begins implementing its water conservation and efficiency program in
868 accordance with the time schedules therein.

869 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of

870 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement
871 the Best Management Practices identified by the time frames issued by the California Urban Water
872 Conservation Council for such M&I Water unless any such practice is determined by the Contracting
873 Officer to be inappropriate for the Contractor.

874 (c) The Contractor shall submit to the Contracting Officer a report on the status of
875 its implementation of the water conservation plan on the reporting dates specified in the then existing
876 conservation and efficiency criteria established under Federal law.

877 (d) At five-year intervals, the Contractor shall revise its water conservation plan
878 to reflect the then current conservation and efficiency criteria for evaluating water conservation plans
879 established under Federal law and submit such revised water management plan to the Contracting
880 Officer for review and evaluation. The Contracting Officer will then determine if the water
881 conservation plan meets Reclamation's then current conservation and efficiency criteria for
882 evaluating water conservation plans established under Federal law.

883 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall
884 be described in the Contractor's water conservation plan.

885 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

886 27. Except as specifically provided in Article 17 of this Contract, the provisions of this
887 Contract shall not be applicable to or affect non-Project water or water rights now owned or hereafter
888 acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such
889 water shall not be considered Project Water under this Contract. In addition, this Contract shall not

890 be construed as limiting or curtailing any rights which the Contractor or any water user within the
891 Contractor's Service Area acquires or has available under any other contract pursuant to Federal
892 Reclamation law.

893 OPERATION AND MAINTENANCE BY SAN LUIS & DELTA-MENDOTA WATER
894 AUTHORITY

895 28. (a) The O&M of a portion of the Project facilities which serve the Contractor, and
896 responsibility for funding a portion of the costs of such O&M, have been transferred to the San Luis
897 & Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate agreement (8-07-
898 20-X0354) between the United States and the Operating Non-Federal Entity San Luis & Delta-
899 Mendota Water Authority. That separate agreement shall not interfere with or affect the rights or
900 obligations of the Contractor or the United States hereunder.

901 (b) The Contracting Officer has previously notified the Contractor in writing that
902 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the
903 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, and therefore, the
904 Contractor shall pay directly to the Operating Non-Federal Entity San Luis & Delta-Mendota Water
905 Authority, or to any successor approved by the Contracting Officer under the terms and conditions of
906 the separate agreement between the United States and the Operating Non-Federal Entity San Luis &
907 Delta-Mendota Water Authority, described in subdivision (a) of this Article, all rates, charges, or
908 assessments of any kind, including any assessment for reserve funds, which the Operating Non-
909 Federal Entity San Luis & Delta-Mendota Water Authority, or such successor determines, sets, or
910 establishes for the O&M of the portion of the Project facilities operated and maintained by the

911 Operating Non-Federal Entity or such successor. Such direct payments to the Operating Non-Federal
912 Entity San Luis & Delta-Mendota Water Authority, or such successor shall not relieve the Contractor
913 of its obligation to pay directly to the United States the Contractor's share of the Project Rates,
914 Charges, and Tiered Pricing Component(s) except to the extent the Operating Non-Federal Entity
915 collects payments on behalf of the United States in accordance with the separate agreement identified
916 in subdivision (a) of this Article.

917 (c) For so long as the O&M of any portion of the Project facilities serving the
918 Contractor is performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water
919 Authority, or any successor thereto, the Contracting Officer shall adjust those components of the
920 Rates for Water Delivered under this Contract representing the cost associated with the activity being
921 performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, or its
922 successor.

923 (d) In the event the O&M of the Project facilities operated and maintained by the
924 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority is re-assumed by the
925 United States during the term of this Contract, the Contracting Officer shall so notify the Contractor,
926 in writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of the
927 Rates to be paid by the Contractor for Project Water under this Contract representing the O&M costs
928 of the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter,
929 in the absence of written notification from the Contracting Officer to the contrary, pay the Rates,
930 Charges, and the Tiered Pricing Component specified in the revised Exhibit "B" directly to the
931 United States in compliance with Article 7 of this Contract.

932 OPERATION AND MAINTENANCE BY CALIFORNIA DEPARTMENT OF WATER

933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953

RESOURCES

28.1 (a) The O&M of a portion of the Project facilities which serve the Contractor, and responsibility for funding a portion of the costs of such O&M, have been transferred to the California Department of Water Resources, an Operating Non-Federal Entity by a separate agreement (14-06-200-9755) between the United States and Operating Non-Federal Entity California Department of Water Resources. This separate agreement shall not interfere with or affect the rights or obligations of the Contractor or the United States hereunder.

(b) The Contracting Officer has previously notified the Contractor in writing that the O&M of a portion of the Project facilities which serve the Contractor has been transferred to Operating Non-Federal Entity California Department of Water Resources, and the Contractor shall pay directly to Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, or to any successor approved by the Contracting Officer under the terms and conditions of the separate agreement between the United States and Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, described in subdivision (a) of Article 28 of this Contract, all rates, charges, or assessments of any kind, including any assessment for reserve funds, which Operating Non-Federal Entity California Department of Water Resources, or such successor determines, sets, or establishes for the O&M of the portion of the Project facilities operated and maintained by Operating Non-Federal Entity California Department of Water Resources, or such successor. Such direct payments to Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, or such successor shall not relieve the Contractor of its obligation to pay directly to the United States the Contractor's share of the Project Rates, Charges, and Tiered Pricing Components except to the extent the Operating

954 Non-Federal Entity collects payments on behalf of the United States in accordance with the separate
955 agreement identified in subdivision (a) of Article 28 of this Contract.

956 (c) For so long as the O&M of any portion of the Project facilities serving the
957 Contractor is performed by Operating Non-Federal Entity California Department of Water Resources,
958 or any successor thereto, the Contracting Officer shall adjust those components of the Rates for
959 Water Delivered under this Contract representing the cost associated with the activity being
960 performed by Operating Non-Federal Entity California Department of Water Resources, or its
961 successor.

962 (d) In the event the O&M of the Project facilities operated and maintained by
963 Operating Non-Federal Entity California Department of Water Resources is re-assumed by the
964 United States during the term of this Contract, the Contracting Officer shall so notify the Contractor,
965 in writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of the
966 Rates, Charges, and the Tiered Pricing Component to be paid by the Contractor for Project Water
967 under this Contract representing the O&M costs of the portion of such Project facilities which have
968 been re-assumed. The Contractor shall, thereafter, in the absence of written notification from the
969 Contracting Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component(s)
970 specified in the revised Exhibit "B" directly to the United States in compliance with Article 7 of this
971 Contract.

972 OPERATION AND MAINTENANCE BY WESTLANDS WATER DISTRICT

973 28.2 (a) The O&M of a portion of the Project facilities which serve the Contractor, and

974 responsibility for funding a portion of the costs of such O&M, have been transferred to the Westlands
975 Water District, the Operating Non-Federal Entity Westlands Water District by a separate contract
976 (14-06-200-2020A) between the United States and Westlands Water District, the Operating Non-
977 Federal

978 Entity Westlands Water District. That above-referenced contract shall not interfere with or affect the
979 rights or obligations of the Contractor or the United States hereunder.

980 (b) The Contracting Officer has previously notified the Contractor in writing that
981 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the
982 Operating Non-Federal Entity Westlands Water District. Therefore, the Contractor has entered into a
983 separate agreement with the Operating Non-Federal Entity Westlands Water District providing the
984 terms and conditions pursuant to which the Operating Non-Federal Entity Westlands Water District
985 will deliver Project Water to the Contractor through the portion of the Project facilities operated and
986 maintained by the Operating Non-Federal Entity Westlands Water District, including the amount(s)
987 the Contractor is to pay the Operating Non-Federal Entity Westlands Water District for that service.
988 The Contractor shall pay directly to the Operating Non-Federal Entity Westlands Water District, or to
989 any successor approved by the Contracting Officer, all rates, charges, or assessments of any kind,
990 including any assessment for reserve funds, described in the separate agreement referred to above or
991 any amendatory or replacement agreement approved by the Contracting Officer, which the Operating
992 Non-Federal Entity Westlands Water District and or such successor determines, sets, or establishes
993 for the Operating Non-Federal Entity Westlands Water District or such successor. Such direct

994 payments to the Operating Non-Federal Entity Westlands Water District or such successor shall not
995 relieve the Contractor of its obligation to pay directly to the United States the Contractor-s share of
996 the Project Rates, Charges, and Tiered Pricing Components referred to in this Contract.

997 (c) For so long as the O&M of any portion of the Project facilities serving the
998 Contractor is performed by the Operating Non-Federal Entity Westlands Water District, or any
999 successor thereto, the Contracting Officer shall adjust those components of the Rates for Water
1000 Delivered under this Contract representing the cost associated with the activity being performed by
1001 the Operating Non-Federal Entity Westlands Water District or its successor.

1002 (d) In the event the O&M of the Project facilities operated and maintained by the
1003 Operating Non-Federal Entity Westlands Water District is re-assumed by the United States during the
1004 term of this Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to
1005 the Contractor a revised Exhibit AB@ which shall include the portion of the Rates, Charges, and the
1006 Tiered Pricing Component to be paid by the Contractor for Project Water under this Contract
1007 representing the O&M costs of the portion of such Project facilities which have been re-assumed.
1008 The Contractor shall, thereafter, in the absence of written notification from the Contracting Officer to
1009 the contrary, pay the Rates, Charges, and Tiered Pricing Component(s) specified in the revised
1010 Exhibit AB@ directly to the United States in compliance with Article 7 of this Contract.

1011 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1012 29. The expenditure or advance of any money or the performance of any obligation of the
1013 United States under this Contract shall be contingent upon appropriation or allotment of funds.
1014 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
1015 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
1016 or allotted.

1017 BOOKS, RECORDS, AND REPORTS

1018 30. (a) The Contractor shall establish and maintain accounts and other books and
1019 records pertaining to administration of the terms and conditions of this Contract, including: the
1020 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;
1021 water use data; and other matters that the Contracting Officer may require. Reports thereon shall be
1022 furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer
1023 may require. Subject to applicable Federal laws and regulations, each party to this Contract shall
1024 have the right during office hours to examine and make copies of the other party's books and records
1025 relating to matters covered by this Contract.

1026 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,
1027 records, or other information shall be requested from the Contractor by the Contracting Officer unless
1028 such books, records, or information are reasonably related to the administration or performance of
1029 this Contract. Any such request shall allow the Contractor a reasonable period of time within which
1030 to provide the requested books, records, or information.

1031 (c) At such time as the Contractor provides information to the Contracting Officer
1032 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the
1033 Operating Non-Federal Entity(ies).

1034 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1035 31. (a) The provisions of this Contract shall apply to and bind the successors and
1036 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1037 therein shall be valid until approved in writing by the Contracting Officer.

1038 (b) The assignment of any right or interest in this Contract by either party shall not
1039 interfere with the rights or obligations of the other party to this Contract absent the written
1040 concurrence of said other party.

1041 (c) The Contracting Officer shall not unreasonably condition or withhold approval
1042 of any proposed assignment.

1043 SEVERABILITY

1044 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor
1045 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
1046 association or other form of organization whose primary function is to represent parties to Project
1047 contracts, brings an action in a court of competent jurisdiction challenging the legality or
1048 enforceability of a provision included in this Contract and said person, entity, association, or
1049 organization obtains a final court decision holding that such provision is legally invalid or
1050 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
1051 parties to this Contract shall use their best efforts to (i) within 30 days of the date of such final court
1052 decision identify by mutual agreement the provisions in this Contract which must be revised and (ii)
1053 within three months thereafter promptly agree on the appropriate revision(s). The time periods
1054 specified above may be extended by mutual agreement of the parties. Pending the completion of the
1055 actions designated above, to the extent it can do so without violating any applicable provisions of
1056 law, the United States shall continue to make the quantities of Project Water specified in this
1057 Contract available to the Contractor pursuant to the provisions of this Contract which were not found
1058 to be legally invalid or unenforceable in the final court decision.

1059 RESOLUTION OF DISPUTES

1060 33. Should any dispute arise concerning any provisions of this Contract, or the parties,
1061 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the
1062 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring
1063 any matter to Department of Justice, the party shall provide to the other party 30 days, written notice

1064 of the intent to take such action; Provided, That such notice shall not be required where a delay in
1065 commencing an action would prejudice the interests of the party that intends to file suit. During the
1066 30-day notice period, the Contractor and the Contracting Officer shall meet and confer in an attempt
1067 to resolve the dispute. Except as specifically provided, nothing herein is intended to waive or abridge
1068 any right or remedy that the Contractor or the United States may have.

1069 OFFICIALS NOT TO BENEFIT

1070 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1071 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1072 manner as other water users or landowners.

1073 CHANGES IN CONTRACTOR'S SERVICE AREA

1074 35. (a) While this Contract is in effect, no change may be made in the Contractor's
1075 Service Area by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,
1076 except upon the Contracting Officer's written consent.

1077 (b) Within 30 days of receipt of a request for such a change, the Contracting
1078 Officer will notify the Contractor of any additional information required by the Contracting Officer
1079 for processing said request, and both parties will meet to establish a mutually agreeable schedule for
1080 timely completion of the process. Such process will analyze whether the proposed change is likely
1081 to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of
1082 the Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-
1083 constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project
1084 Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with
1085 the NEPA and the ESA. The Contractor will be responsible for all costs incurred by the Contracting
1086 Officer in this process, and such costs will be paid in accordance with Article 25 of this Contract.

1087

FEDERAL LAWS

1088 36. By entering into this Contract, the Contractor does not waive its rights to contest the
1089 validity or application in connection with the performance of the terms and conditions of this
1090 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the
1091 terms and conditions of this Contract unless and until relief from application of such Federal law or
1092 regulation to the implementing provision of the Contract is granted by a court of competent
1093 jurisdiction.

1094

NOTICES

1095 37. Any notice, demand, or request authorized or required by this Contract shall be
1096 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
1097 to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California 97321,
1098 and on behalf of the United States, when mailed, postage prepaid, or delivered to the City Council of
1099 the City of Huron, P. O. Box 339, Huron, California 93234. The designation of the addressee or the
1100 address may be changed by notice given in the same manner as provided in this Article for other
1101 notices.

1102

CONFIRMATION OF CONTRACT

1103 38. The Contractor, after the execution of this Contract, shall furnish to the Contracting
1104 Officer evidence that pursuant to the law of the State of California, the Contractor is a legally
1105 constituted entity and the Contract is lawful, valid, and binding on the Contractor. This Contract
1106 shall not be binding on the United States until such evidence has been provided to the Contracting
1107 Officers satisfaction.

1108 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and
1109 year first above written.

1110 THE UNITED STATES OF AMERICA

1111 By: _____
1112 Regional Director, Mid-Pacific Region
1113 Bureau of Reclamation

1114 (SEAL)

1115 Approved as to form:

1116 _____
1117 City Attorney

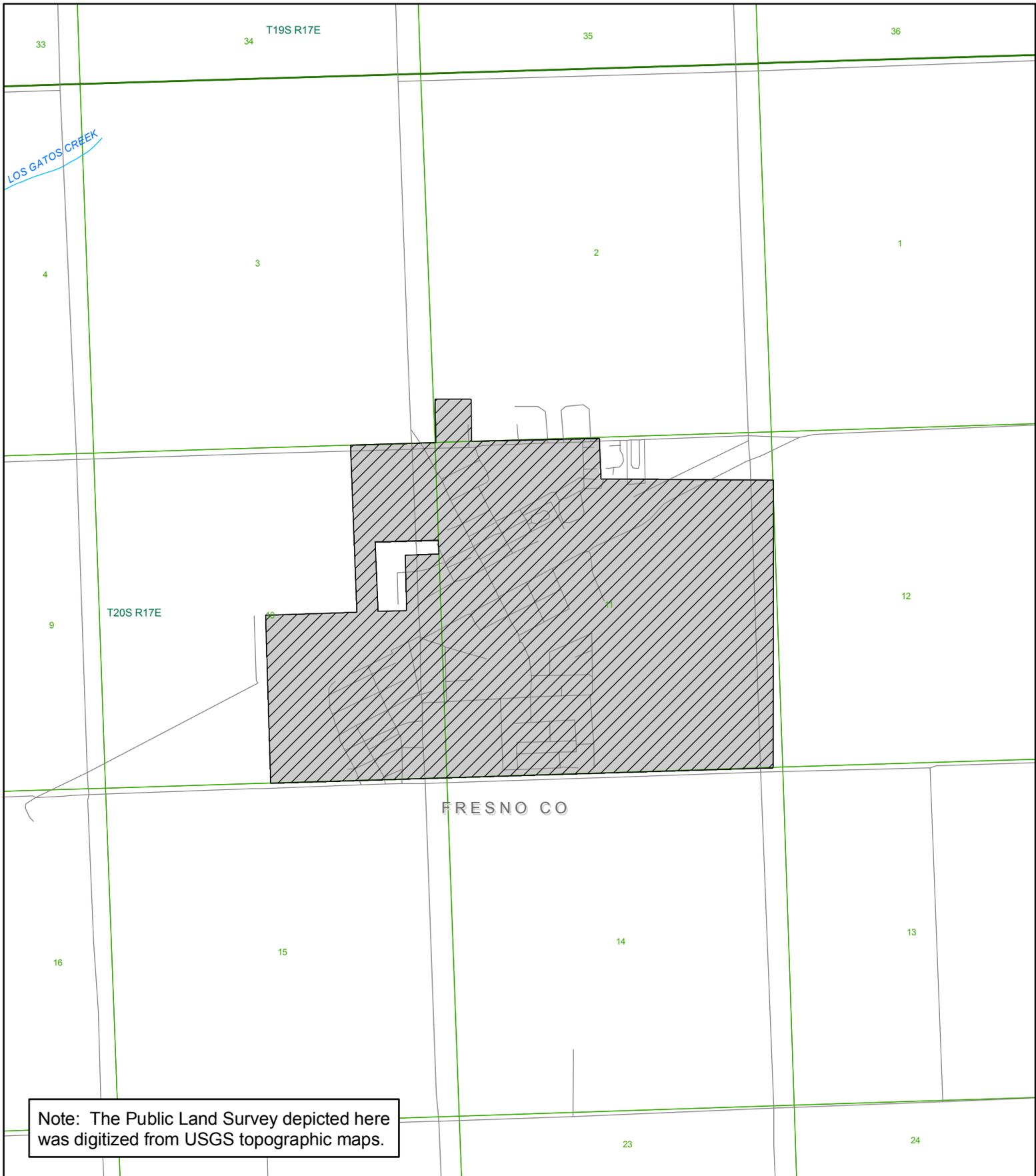
1118 CITY OF HURON

1119 By: _____
1120 Mayor

1121 Attest:

1122 By: _____
1123 City Clerk

1124 (H:\pub 440\LTRC\Final Draft LTRC's – Fresno, Tracy\10-22-04 City of Huron Final Draft LTRC
1125 with exhibits.



City of Huron

Contract No. 14-06-200-7081A-LTR1
Exhibit A

-  District Boundary
-  Contractor's Service Area

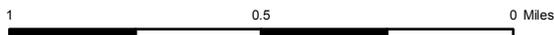


EXHIBIT B
CITY OF HURON
Water Rates and Charges

	<u>M&I Water</u>
COST-OF-SERVICE (COS) RATE:	
Capital Rate:	\$22.88
O&M Rates:	
Water Marketing	\$5.01
Storage	\$6.38
Conveyance	*
Direct Pumping (Project Use Energy)	
Tracy Pumping	*
Deficit Rates:	
Non-Interest Bearing	N/A
Interest Bearing	\$54.13
CFO/PFR Adj Rate: **	\$3.31
TOTAL COS RATE:	\$91.71
CONTRACT RATE: ***	\$14.70
M&I FULL-COST RATE:	\$106.78
Tiered Pricing Component >80% <=90% of Contract Total [Full Cost Rate - COS Rate /2]:	
Tiered Pricing Component >90% of Contract Total [Full Cost Rate - COS Rate]:	
SURCHARGES UNDER P.L. 102-575 TO RESTORATION FUND*****	\$15.64

* Conveyance and Conveyance Pumping Operation and maintenance costs were removed for ratesetting purposes and are to be billed directly to the water authorities.

** Rate represents the Chief Financial Officer (CFO) adjustment and Provision for Replacement (PFR) credit for option 2 cost deferment to be distributed over a 5-year period beginning with 2003 water rates.

*** Water deliveries are to be paid at the contract rate. Contract rate consists of the total O&M rate plus the CFO/PFR adjusted rate component.

***** The surcharges are payments in addition to the water rates and were determined pursuant to Title XXXIV of Public Law 102-575. Restoration fund surcharges under P.L. 102-575 are on a fiscal year basis (10/1-9/30).